

# Resolution

No. 11-24

REFERRING TO THE LANAI, MAUI, AND MOLOKAI  
PLANNING COMMISSIONS A DRAFT BILL  
AMENDING TITLE 19, MAUI COUNTY CODE,  
RELATING TO SHORT-TERM RENTAL HOMES

WHEREAS, the Council is considering a draft bill to establish a permitting process and appropriate restrictions and standards for short-term rental homes; and

WHEREAS, Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended, require that the appropriate planning commissions review and transmit recommendations to the Council on proposed land use ordinances; now, therefore;

BE IT RESOLVED by the Council of the County of Maui:

1. That it hereby refers the draft bill entitled "A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE, RELATING TO SHORT-TERM RENTAL HOMES", a copy of which is attached hereto as Exhibit "A" and made a part hereof, to the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission, for review pursuant to Sections 8-8.4 and 8-8.6 of the Revised Charter of the County of Maui (1983), as amended; and
2. That it respectfully requests that the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission transmit their respective findings and recommendations to the Council as expeditiously as possible; and
3. That certified copies of this resolution be transmitted to the Mayor, the Planning Director, the Lanai Planning Commission, the Maui Planning Commission, and the Molokai Planning Commission.

APPROVED AS TO FORM  
AND LEGALITY:



MICHAEL J. HOPPER  
Deputy Corporation Counsel  
County of Maui

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ORDINANCE NO. \_\_\_\_\_

BILL NO. \_\_\_\_\_ (2011)

A BILL FOR AN ORDINANCE AMENDING TITLE 19, MAUI COUNTY CODE,  
RELATING TO SHORT-TERM RENTAL HOMES

BE IT ORDAINED BY THE PEOPLE OF THE COUNTY OF MAUI:

SECTION 1. The purpose of this bill is to establish procedures to permit short-term rental homes in certain areas, subject to appropriate restrictions and standards. It is the intent of the Council to implement land use policies consistent with the County of Maui's General Plan and the State of Hawaii's land use laws; to retain the character of residential neighborhoods; and to allow for varied accommodations and experiences for visitors.

SECTION 2. Section 19.02A.030, Maui County Code, is amended to read as follows:

**"19.02A.030 Permitted property uses.** No land or building shall be used and no building shall be erected or structurally altered or maintained within the districts of Wailuku, Makawao, Lahaina, Hana, Lanai, and Molokai except for one or more of the following uses, subject to the referenced development standards:

1. One single-family dwelling per six thousand square feet of land:

**EXHIBIT** "A"

DEVELOPMENT STANDARDS	
Minimum lot area	6,000 square feet
Minimum lot width	60 feet
Maximum height	30 feet
Minimum yard setback	(Up to and including 15 feet in height) Front 15 feet Side 6 feet Rear 6 feet  (More than 15 feet in height) Front 15 feet Side 10 feet Rear 10 feet

There may be the usual necessary accessory buildings, as defined in section 19.04.040 of this code, in connection with any such dwelling.

2. Duplex dwellings:

DEVELOPMENT STANDARDS	
Minimum lot area	12,000 square feet
Minimum lot width	60 feet
Maximum building height	30 feet
Minimum yard setback	(Up to and including 15 feet in height): Front 15 feet Side 6 feet Rear 6 feet  (More than 15 feet in height): Front 15 feet Side 10 feet Rear 10 feet

3. Hospitals and/or sanitariums, and/or convalescent homes, day care facilities, museums, churches, libraries, kindergartens, elementary schools, intermediate schools, high schools, universities, publicly owned buildings, public utility uses, and tower structures in support of a utility:

DEVELOPMENT STANDARDS		
Minimum lot area	20,000 square feet	
Minimum lot width	100 feet	
Maximum building height	30 feet	
Maximum tower height	50 feet	
Minimum yard setback	Front 20 feet Side 20 feet Rear 20 feet	Tower structures in support of a utility shall be set back from the property line at a distance at least equal to the overall height of the tower

4. The construction of new, or the expansion of existing, parks, playgrounds, or community centers, owned or operated by private or governmental agencies, and tower structures in support of a utility, provided that the utility services the new or expanded park, playground, or community center:

DEVELOPMENT STANDARDS		
Minimum lot area	No minimum	
Minimum lot width	No minimum	
Maximum building/tower height	50 feet on the islands of Maui and Lanai. On the island of Molokai, building height shall be limited to 35 feet, and tower height shall be limited to 50 feet.	
Minimum yard setback	Front 15 feet Side 10 feet Rear 15 feet	Tower structures in support of a utility shall be set back from the property line at a distance at least equal to the overall height of the tower

5. Agricultural uses:

DEVELOPMENT STANDARDS		
Use	Lot Size	Special Use Permit Required
Agriculture, excluding the raising and/or keeping of bees and pigs	Less than one acre	No
	One acre or more	No
Agriculture, including the raising and/or keeping of bees and pigs	Less than one acre	Yes
	One acre or more	Yes
Commercial agriculture, excluding the raising and/or keeping of bees and pigs	Less than one acre	Yes
	One acre or more	No
Commercial agriculture, including the raising and/or keeping of bees and pigs	Less than one acre	Yes
	One acre or more	Yes

For purposes of this section, special use permits shall be processed pursuant to chapter 19.510 of this code, and assessed a permit fee as established in the annual budget of the County.

6. Bed and breakfast homes subject to chapter 19.64 of this [code] title.

7. Short-term rental homes subject to chapter 19.65 of this title.”

SECTION 3. Section 19.040.040, Maui County Code, is amended by adding a new definition to read as follows:

““Short-term rental home” means a use in which overnight accommodations are provided to guests for compensation, for periods of less than one hundred eighty days, in no more than two detached single-family dwelling units, excluding bed and breakfast homes. Each short-term rental home shall include bedrooms, one kitchen, and living areas. Each lot containing a short-term rental home shall include no more than two detached single-family dwelling units,

with no more than six bedrooms for short-term rental home use, as specified within the zoning district provisions of this title.”

SECTION 4. Section 19.040.040, Maui County Code, is amended by amending the definitions of “Bed and breakfast home”, “Transient vacation rentals or use”, and “Hotel” or “motel”, respectively, to read as follows:

““Bed and breakfast home” means a use in which overnight accommodations are provided to guests for compensation, for periods of less than one hundred eighty days, in no more than two detached single-family dwelling units, one of which is occupied by the owner-proprietor. Each bed and breakfast home shall include bedrooms, one kitchen, and living areas and shall include no more than six bedrooms for [short-term rental] bed and breakfast home use, as specified within the zoning district provisions of this title.”

““Transient vacation rentals or use” means occupancy of a dwelling or lodging unit by transients for any period of less than one hundred eighty days, excluding bed and breakfast homes and short-term rental homes.”

““Hotel” or “motel” means a transient vacation rental, [other than a] excluding bed and breakfast [home containing lodging or dwelling units] homes and short-term rental homes.”

SECTION 5. Section 19.08.020, Maui County Code, is amended to read as follows:

**“19.08.020 Permitted uses.** Within residential districts, the following uses shall be permitted:

- A. Single-family dwellings;
- B. Greenhouses, flower and truck gardens, and nurseries; provided, that there shall be no retailing or transacting of business on the premises;
- C. Parks and playgrounds, noncommercial; certain commercial amusement and refreshment sale activities may be permitted when under supervision of the government agency in charge of the park or playground;
- D. Schools, elementary, intermediate, high, and colleges, publicly or privately owned, which may include on-campus dormitories;
- E. Buildings or premises used by the federal, State, or county governments for public purposes;
- F. Accessory buildings located on the same lot, the use of which is customary, incidental, usual, and necessary to that of the main building or to the use of the land;
- G. An accessory dwelling may be permitted where the area of the lot on which the main house is located is seven thousand five hundred square

- feet or more. Chapter 19.35 of this [article] title, pertaining to accessory dwellings, shall be applicable to any accessory dwelling;
- H. Day care nurseries, kindergartens, nursery schools, child care homes, day care homes, day care centers, nurseries, preschool kindergartens, babysitting services, and other like facilities located in private homes used for child care services. These facilities shall serve six or fewer children at any one time on lot sizes of less than seven thousand five hundred square feet, serving eight or fewer children at any one time on lot sizes of seven thousand five hundred or more square feet but less than ten thousand square feet, or serving twelve or fewer children at any one time on lot sizes of ten thousand or more square feet;
  - I. Subject to the restrictions and standards of chapter 19.64 of this title, [Type 1] bed and breakfast homes [shall be permitted on any lot; Type 2 bed and breakfast homes shall be permitted on lots of seven thousand five hundred square feet or greater, and Type 3 bed and breakfast homes shall be permitted on lots of ten thousand square feet or greater; and];
  - J. Home occupations[.]; and
  - K. Subject to the restrictions and standards of chapter 19.65 of this title, short-term rental homes."

SECTION 6. Section 19.11.020, Maui County Code, is amended to read as follows:

**"19.11.020 Permitted uses.** The following use and structures shall be permitted in the SBR service business residential district:

1. Single-family dwellings;
2. Duplex dwellings;
3. Greenhouses, truck gardens, and nurseries;
4. SBR service establishments;
5. SBR mixed-use establishments;
6. Bed and breakfast homes, subject to the provisions of section 19.64.030 of this code[.]; and
7. Short-term rental homes, subject to the provisions of section 19.65.030 of this title."

SECTION 7. Section 19.15.020, Maui County Code, is amended by amending subsection A to read as follows:

- "A. Principal Uses:
1. Amusement and recreational activities that are situated within completely enclosed building;
  2. Automobile services;
  3. Auditoriums and theaters;
  4. Bakeries;



5. Buildings and premises utilized, owned, or operated by government agencies, including community centers;
6. Business, financial, and professional offices;
7. Commercial retail establishments;
8. Eating and drinking establishments;
9. Educational, research, trade, and personal skills facilities and learning centers;
10. Fitness centers and dancing studios;
11. Hardware, feed, and garden stores; provided, that feed and fertilizer are kept within an enclosed building;
12. Laundromats;
13. Music studios;
14. Parking lots;
15. Personal service establishments;
16. Printing establishments that are totally enclosed within a building;
17. Religious, benevolent, and philanthropic societies, and civic organizations;
18. Bed and breakfast homes, in lawfully existing single-family dwellings, subject to the restrictions and standards of [Section] section 19.64.030 of this title;
19. Day care facilities, except on Molokai;
20. Medical facilities and animal hospitals, except on Molokai;
21. Multifamily dwellings, duplexes, and bungalow courts, except on Molokai;
22. Combinations of dwelling units with other permitted principal uses in the same building, except on Molokai; [and]
23. Home occupations, in lawfully existing single-family dwellings[.]; and
24. Short-term rental homes, in lawfully existing single-family dwellings, subject to the restrictions and standards of section 19.65.030 of this title."

SECTION 8. Section 19.16.020, Maui County Code, is amended to read as follows:

**"19.16.020 Permitted uses.** Within the B-1 district, the following uses shall be permitted:

- A. Barber or beauty shops;
- B. Baker goods stores;
- C. Book, stationery, or gift stores;
- D. Candy stores;
- E. Churches;
- F. Day care centers and nurseries;
- G. Delicatessen stores;
- H. Drugstores;
- I. Florist shops;
- J. Grocery stores and meat markets;
- K. Ice cream or snack counters;
- L. Laundromats;
- M. Liquor stores (package only);



- N. Gasoline retailing, provided it is owned and operated as an adjunct to a neighborhood store; and provided further, that no servicing, repairing, storing, washing, or maintenance of vehicles will be permitted on the premises;
- O. Other similar retail businesses or service establishments that supply commodities or perform services primarily for residents of the surrounding neighborhood; provided, however, such uses shall be approved by the commission as conforming to the intent of this title;
- P. One single-family dwelling per lot, provided the lot is sufficiently large to provide a lot area six thousand square feet for the dwelling after the area for the business, parking, and other accessory areas for the business have been subtracted; or living and sleeping quarters for a single family constructed above the ground floor of the business building;
- Q. Bed and breakfast homes, subject to the restrictions and standards of section 19.64.030 of this title; [and]
- R. Home occupations in single-family dwellings permitted pursuant to subsection P[.]; and
- S. Short-term rental homes, subject to the restrictions and standards of section 19.65.030 of this title."

SECTION 9. Section 19.18.020, Maui County Code, is amended to read as follows:

**"19.18.020 Permitted uses.** Within the B-2 district, the following uses shall be permitted:

- 1. Any use permitted in a B-1 neighborhood business district; however, no living or sleeping quarters shall be permitted in any detached accessory building or structure on the same lot;
- 2. Amusement enterprises, including billiard or pool halls;
- 3. Antique shops;
- 4. Apartments;
- 5. Art galleries;
- 6. Auctioneer establishments;
- 7. Auditoriums and theaters;
- 8. Automobile parking lots and/or buildings;
- 9. Automobile parts stores;
- 10. Automobile service stations, with or without auto repairing; provided all auto repairing operations are conducted in enclosed buildings; and provided further, that tire rebuilding or battery manufacturing shall not be permitted within this district;
- 11. Automobile upholstery shops;
- 12. Awning or canvas shops;
- 13. Banks;
- 14. Baseball or football stadiums and other sport activities and amusements;
- 15. Bath houses, commercial (plunge);
- 16. Baths, Turkish and the like, including masseurs;
- 17. Block-printing establishments;

18. Bowling alleys;
19. Business offices and agencies;
20. Catering establishments employing not more than five persons;
21. Charity relief organizations;
22. Clinics, medical or dental;
23. Custom dressmaking or millinery shops;
24. Dancehalls;
25. Dancing and hula studios;
26. Dressmaking shops;
27. Dry goods and/or department stores;
28. Equipment rental and sales yards;
29. Feed stores;
30. Gymnasiums;
31. Haberdasheries and women's apparel shops;
32. Hardware and garden supply stores;
33. Ice cream and milk manufacturing plants employing not more than twenty-five persons;
34. Jewelry stores or fine art shops, including interior decorating;
35. Libraries;
36. Marinas;
37. Miniature golf courses;
38. Museums;
39. Music conservatories or music studios;
40. News and magazine stands;
41. Nurseries (flower or plants); provided, that all incidental equipment and supplies, including fertilizers and empty cans, are kept within enclosed buildings;
42. Nursing and convalescent homes;
43. Parcel delivery stations;
44. Pet shops[,] not involving the treatment or boarding of animals;
45. Photo studios;
46. Physical culture studios;
47. Plumbing shops within wholly enclosed buildings and employing not more than five persons;
48. Printing, lithography, or publishing shops;
49. Private clubs or fraternal organizations;
50. Private schools or business colleges;
51. Professional and financial buildings;
52. Public parking areas;
53. Radio and television stations;
54. Religious, benevolent, and philanthropic societies;
55. Restaurants, cafes, or bars, including drive-ins;
56. Sanitariums;
57. Shoe stores;
58. Sign-painting shops within wholly enclosed buildings and employing not more than five persons;

- 59. Skating shops;
- 60. Tailor shops;
- 61. Trade schools;
- 62. Used car lots; provided all repair and maintenance is conducted within a wholly enclosed building;
- 63. Mortuaries, subject to the approval of the commission;
- 64. Warehouses and yards [which] that are adjunct to, and part of, the operation of the permitted uses listed above may be permitted by the commission, provided such uses are determined to conform to the intent of this article, and subject to such terms and conditions as may be warranted. Such uses shall be conducted wholly within a completely enclosed building or within an area enclosed on all sides by a solid fence or wall at least six feet in height; and provided, that no goods, materials, or objects shall be stacked higher than the fence or walls so erected;
- 65. Bed and breakfast homes, subject to the restrictions and standards of section 19.64.030 of this title;
- 66. Any other retail businesses or commercial enterprises [which] that are similar in character of rendering sales of commodities or performance of services to the community and not detrimental to the welfare of the surrounding area; provided, however, that such uses shall be approved by the commission as conforming to the intent of this article[.]; and
- 67. Short-term rental homes, subject to the restrictions and standards of section 19.65.030 of this title.

SECTION 10. Section 19.29.030, Maui County Code, is amended by amending subsection B to read as follows:

“B. Accessory Uses.

- 1. Accessory uses such as garages, carports, barns, greenhouses, gardening sheds, and similar structures that are customarily used in conjunction with and incidental and subordinate to a principal use or structure;
- 2. The keeping of livestock, hogs, poultry, and fowl and game birds;
- 3. One accessory dwelling per lot, in accordance with the provisions of chapter 19.35 of this code;
- 4. Small-scale energy systems that are incidental and subordinate to principal uses;
- 5. Stands for the purpose of displaying and selling agricultural, floriculture or farming products, if such products have been produced or grown on the premises, subject to standards in section 19.29.020 of this code. Goods produced off-premises are expressly prohibited; [and]
- 6. Bed and breakfast homes, subject to chapter 19.64 of this [code] title[.]; and

7. Short-term rental homes, subject to chapter 19.65 of this title.”

SECTION 11. Section 19.30A.050, Maui County Code, is amended by amending subsection B to read as follows:

“B. Accessory Uses. Uses that are incidental or subordinate to, or customarily used in conjunction with a permitted principal use, as follows:

1. Two farm dwellings per lot, one of which shall not exceed one thousand square feet of developable area;

2. One farm labor dwelling per five acres of lot area. On the island of Maui, the owner or lessee of the lot shall meet two of the following three criteria:

a. Provide proof of at least \$35,000 of gross sales of agricultural product(s) per year, for the preceding two consecutive years, for each farm labor dwelling on the lot, as shown by State general excise tax forms and federal form 1040 schedule F filings;

b. Provide certification by the department of water supply that agricultural water rates are being paid if the subject lot is served by the County water system; or

c. Provide a farm plan that demonstrates the feasibility of commercial agricultural production.

On the islands of Moloka'i and Lana'i, the owner or lessee of the lot shall meet both of the criteria provided by subsections 19.30A.050.B.2.a and 19.30A.050.B.2.b;

3. One agricultural products stand per lot, for the purpose of displaying and selling agricultural products grown and processed on the premises or grown in the County, provided that said stand shall not exceed three hundred square feet, shall be set back at least fifteen feet from roadways, shall have a wall area that is at least fifty percent open, and shall meet the off-street parking requirements for roadside stands provided by section 19.36.010 of this code, except that paved parking shall not be required; stands that display or sell agricultural products that are not grown on the premises shall be required to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes;

4. Farmer's markets, for the growers and producers of agricultural products to display and sell agricultural products grown and processed in the County; structures shall have a wall area that is at least fifty percent open; markets shall operate only during daylight hours and shall not operate on parcels less than ten acres; the director of public works may impose additional requirements if a building permit is required for any structures; markets that display or sell agricultural products that are not grown on the premises shall be required to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes;

5. Storage, wholesale and distribution, including barns; greenhouses; storage facilities for agricultural supplies, products and irrigation water; farmer's cooperatives; and similar structures that are customarily associated with one or more of the permitted principal uses or, for the purpose of this section, are associated with agriculture in the County;

6. Processing of agricultural products, the majority of which are grown in the County; this includes the burning of bagasse as part of an agricultural operation;

7. Energy systems, small-scale;

8. Small-scale animal-keeping;

9. Animal hospitals and animal board facilities; if conducted on the island of Moloka'i, such uses shall have been approved by the Moloka'i planning commission as conforming to the intent of this chapter;

10. Riding academies; if conducted on the island of Moloka'i, such uses shall have been approved by the Moloka'i planning commission as conforming to the intent of this chapter;

11. Open land recreation as follows: hiking; noncommercial camping; fishing; hunting; equestrian activities; rodeo arenas; arboretums; greenways; botanical gardens; guided tours that are accessory to principal uses, such as farm or plantation tours, petting zoos, and garden tours; hang gliding; paragliding; mountain biking; and accessory restroom facilities. If hiking, fishing, hunting, equestrian activities, rodeo arenas, hang gliding, paragliding or mountain biking are conducted for commercial purposes on the island of Moloka'i, such uses shall have been approved by the Moloka'i planning commission as conforming to the intent of this chapter. Open land recreation uses or structures not specifically permitted by this subsection or by subsection 19.30A.060.H shall be prohibited; certain open land recreation uses or structures may also be required to obtain a special permit pursuant to chapter 205, Hawai'i Revised Statutes;

12. Except on Molokai, bed and breakfast homes permitted under chapter 19.64 of this code that are:

a. Operated in conjunction with a bona fide agricultural operation that produced \$35,000 of gross sales of agricultural products for each of the preceding two years, as shown by State general excise tax forms and federal form 1040 schedule F filings; or

b. In compliance with all of the following criteria, provided that the bed and breakfast home is not subject to a condominium property regime pursuant to chapter 514A, Hawaii Revised Statutes:

i. The lot was created prior to November 1, 2008;

ii. The lot is comprised of five acres or less;  
and



iii. An approved farm plan has been fully implemented and is consistent with chapter 205, Hawaii Revised Statutes; or

c. Located in sites listed on the State of Hawaii Historic Register or the National Register of Historic Places[.];

13. Parks for public use, not including golf courses and not including commercial uses, except when under the supervision of a government agency in charge of parks and playgrounds; [and]

14. Except on Molokai, short-term rental homes permitted under chapter 19.65 of this title that are:

a. Operated in conjunction with a bona fide agricultural operation that produced \$35,000 of gross sales of agricultural products for each of the preceding two years, as shown by State general excise tax forms and federal form 1040 schedule F filings; or

b. In compliance with all of the following criteria, provided that the short-term rental home is not subject to a condominium property regime pursuant to chapter 514A, Hawaii Revised Statutes:

i. The lot was created prior to November 1, 2008;

ii. The lot is comprised of five acres or less;  
and

iii. An approved farm plan has been fully implemented and is consistent with chapter 205, Hawaii Revised Statutes; or

c. Located in sites listed on the State of Hawaii Historic Register or the National Register of Historic Places; and

15. Other uses that primarily support a permitted principal use; however, such uses shall be approved by the appropriate planning commission as conforming to the intent of this chapter.”

SECTION 12. Section 19.36A.010, Maui County Code, is amended to read as follows:

**“19.36A.010 Designated number of spaces.** Unless otherwise provided in this chapter, the following minimum numbers of accessible off-street facilities for the parking of self-propelled motor vehicles shall be provided on private property in connection with the use of any land, or the erection or remodeling of any building or structure. The number of off-street parking spaces required shall not be less than the sum total of spaces of the number of required parking spaces for each component use of land, building, or structure hereinafter specified:

<u>USE</u>	<u>MINIMUM PARKING RATIO</u>
Accessory dwelling	One parking space for each dwelling unit.
Apartment house, apartment,	Two parking spaces for each unit; provided, that two

apartment-motel with kitchen facility in room	parking spaces assigned to a dwelling unit, or allocated for employee parking, may be situated in tandem thereby allowing two vehicles to park end to end.
Auditorium, theater, stadium, bleachers	One parking space for every six seats.
Banks and medical and dental clinics	One parking space for every three hundred square feet of building; provided, that the minimum shall be three parking spaces.
Bed and breakfast home	One parking space for each bedroom used for [short-term rental] <u>bed and breakfast home</u> use, in addition to any other parking space(s) required by this section. Stalls may be situated in tandem.
Bowling alley	Five parking spaces for each alley.
Business building	One parking space for every five hundred square feet of floor area of building; provided, that the minimum shall be three parking spaces.
Church, place of worship	One parking space for every one hundred square feet of floor area of building.
Clubhouse, private club	One parking space for every two hundred square feet of floor area of building.
Convertible apartment, hotel and apartment/hotel units, i.e., single units capable of being utilized as two or more units	An additional one parking space for every three convertible units shall be provided.
Day care facility	One parking space for each classroom.
Domestic type business in home	One parking space for each business.
Golf course	Three parking spaces for each hole in the course.
Golf driving range	Four parking spaces for each acre.
Hospitals	One parking space for every three beds.
Hotel	One parking space for every two guest rooms.
Industrial or storage uses in M-1 and M-2 industrial zones	One parking space for every six hundred square feet of floor area of building or twenty-five percent of the lot area, whichever is the greater.
Library, museum, art gallery	One parking space for every three hundred square feet of floor area of building.
Live/work mixed use	One parking space for every seven hundred fifty square feet of area used for live/work business; commercial uses and residential uses with a live/work configuration may share parking spaces. The spaces required for the residential unit on a live/work building lot may be applied toward the number of spaces required for a business use.
Lodging house	One parking space for every two lodging rooms.



Mortuary	One parking space for every forty square feet of floor area of building.
Motel	One and one-half parking spaces for each unit.
Public utility substation	One parking space.
Restaurant, bar, nightclub, amusement centers	One parking space for every one hundred square feet of serving and dining areas; provided, that there shall be a minimum of three parking spaces for patrons and a minimum of three additional spaces for employee parking for each such establishment.
Roadside stand	Two parking spaces for each stand.
Sanitarium, welfare institution, nursing home	One parking space for every eight beds.
School with students under fifteen years of age and with students fifteen years of age or older	Eight parking spaces for each classroom.
School with students under fifteen years of age	One parking space for each classroom.
School with students fifteen years of age or older	Eight parking spaces for each classroom.
Self-storage	One parking space for every three thousand square feet of storage.
Service station, repair shop, garage	One parking space for every two hundred square feet of floor area of building or forty percent of the lot area, whichever is the greater. The storing and keeping of damaged vehicles or parts thereof shall be within an enclosure bounded completely by a wall six feet in height.
Shopping centers	One parking space for every two hundred square feet of floor area of all buildings, except for restaurant, bar, nightclub, and amusement facilities, for which parking requirements under this section shall apply.
<u>Short-term rental home</u>	<u>One parking space for each bedroom used for short-term rental home use, in addition to any other parking requirements under this chapter. Stalls may be situated in tandem.</u>
Single-family dwelling, farm dwelling, duplex	Two parking spaces for each dwelling unit.
Swimming pool, gymnasium	One parking space for every six hundred square feet of gross floor area of pool or building.
Taxi stand and bus stand	One parking space for each vehicle operating from that stand. The space shall be sufficient in size to accommodate the bus or vehicle, and shall be marked "Taxi Only" or "Bus Only".

Tennis courts	Six parking spaces for each court.
U-drive stand and storage	One parking space for each vehicle operating from that stand or storage. Where the U-drive business is within a hotel district, the storage area for the U-drive vehicles shall be physically separated from the hotel parking area, and shall be physically bounded and marked for "U-Drive Vehicles Only".

SECTION 13. Section 19.37.010, Maui County Code, is amended by amending subsection A to read as follows:

“A. Except as provided in this section, time share units[,] and time share plans [and transient vacation rentals] are prohibited. Transient vacation rentals are prohibited, excluding bed and breakfast homes permitted under chapter 19.64 of this title, short-term rental homes permitted under chapter 19.65 of this title, transient vacation rental units permitted by a conditional permit under chapter 19.40 of this title, and hotels that are permitted based on the applicable zoning in the comprehensive zoning ordinance.”

SECTION 14. Title 19, Maui County Code, is amended to add a new chapter to be designed and read as follows:

#### **“Chapter 19.65**

#### **SHORT-TERM RENTAL HOMES**

**19.65.010 Purpose and intent.** The purpose of this chapter is to establish a permitting process and appropriate restrictions and standards for short-term rental homes; to allow small businesses an opportunity to participate and benefit from tourism; to provide a visitor experience and accommodation as an alternative to the resort and hotel accommodations currently existing in the county; and to retain the character of the neighborhoods in which any short-term rental home is located.

**19.65.020 Districts in which permitted.** Short-term rental homes shall be permitted in accordance with the provisions established in each zoning district and as provided in this chapter.

**19.65.030 Restrictions and standards.** Short-term rental homes shall be subject to the following restrictions and standards:

A. The short-term rental home use shall be permitted in no more than two single-family dwelling units per lot.

B. The owner shall have a current transient accommodations tax license and general excise tax license for the short-term rental home.

C. The owner-applicant shall have legal title to the property on which the short-term rental home is located. If the owner-applicant is not a full-time resident of the county, the owner-applicant shall provide the name of a person who shall serve as onsite caretaker or off-site manager. An onsite caretaker shall reside on the lot and have responsibility for overseeing all guest actions. An off-site manager shall be a State-licensed real estate professional and be accessible twenty-four hours per day.

D. The short-term rental home permit shall be in the name of the owner-applicant, who shall be a natural person and an owner of the real property upon which the short-term rental home use shall be permitted. One person may hold no more than one short-term rental home permit. No short-term rental home permit shall be held by a corporation, partnership, limited liability company, or similar entity. The permit shall not be transferable. No more than one short-term rental home permit shall be approved for any lot.

E. The number of bedrooms used for short-term rental home use in the short-term rental home shall be no greater than six on Lanai and Maui and no greater than three on Molokai. The total number of guests staying in the short-term rental home at any one time shall be no greater than two times the number of bedrooms.

F. Any structure permitted as a short-term rental home shall be in compliance with all other applicable federal, State, and county laws. The building standards that shall be applied to any short-term rental home shall be no greater than those in effect at the time the building permit for the structure was obtained.

G. In permitting short-term rental homes, the planning director and the planning commissions shall not consider, nor be bound by, any private conditions, covenants, or restrictions upon the subject parcel. Any such limitations may be enforced against the property owner through appropriate civil action.

H. All advertising for any short-term rental home shall include the number of the permit granted to the owner-applicant.

I. Single-station smoke detectors shall be provided in all guest bedrooms.

J. Single-family dwellings used as short-term rental homes shall not qualify for real property tax exemptions pursuant to chapter 3.48 of this title.

K. No short-term rental home shall create any impact greater than those theretofore existing in that district and shall conform to the character of the neighborhood.

L. Short-term rental homes shall be limited to single-family structures existing and constructed as of the date of application for the short-term rental home permit.

M. Within the Hana community plan area, on Lanai, and on Molokai, a one-square foot sign identifying the short-term home rental home permit number shall be placed at the front of the property along the main access road. On Lanai and Molokai, the sign shall be attached to an existing structure, such as

a fence. On Molokai, the sign shall state the telephone number of the owner, onsite caretaker, or off-site manager.

N. All guest parking must be off-street. Grasscrete and tandem parking shall be allowed for any required parking stalls.

O. The owner-applicant shall post "house policies" within each guest room. The house policies shall be included in the rental agreement, which must be signed by each guest and shall be enforced by the owner-applicant, onsite caretaker, or off-site manager. The house policies at a minimum shall include the following provisions:

1. Quiet hours shall be maintained from 9:00 p.m. to 8:00 a.m., during which noise in the short-term rental home shall not disturb anyone on a neighboring property.

2. Amplified sound that is audible beyond the property boundaries of the short-term rental home is prohibited.

3. Vehicles shall be parked in the designated onsite parking area and shall not be parked on the street overnight.

4. No parties or group gatherings shall occur without a special events use permit granted by the department of planning pursuant to administrative rules.

P. The county shall be restricted in approving permits for short-term rental homes as distributed per the following community plan areas and as further restricted by the applicable community plan:

1. Hana: 48.

2. Kihei-Makena: 100.

3. Makawao-Pukalani-Kula: 40.

4. Paia-Haiku: 88.

5. Wailuku-Kahului: 36.

6. West Maui: 88.

Q. The planning director or planning commission may impose conditions on the granting of a request for a short-term rental home if the conditions are reasonably conceived to mitigate the impacts emanating from the proposed land use.

**19.65.040 Procedures for application and public notice.** A. Prospective owner-applicants of short-term rental homes shall apply for a permit with the planning director in accordance with the provisions of this chapter. A permit application fee shall be set forth in the annual budget. All permit applications shall include the following information:

1. The name, address, and phone number of the applicant, and verification that the applicant is the owner of the lot;

2. The tax map key number of the lot on which the short-term rental home is proposed;

3. Certification that the permit will be nontransferable and that:

- a. The owner-applicant is a full-time resident of the County;

b. An onsite caretaker shall have responsibility for overseeing all guest actions; or

c. An off-site manager is a State-licensed real estate professional who shall be accessible twenty-four hours per day;

4. A site and floor plan identifying the location of parking on the site and the location of any bedrooms to be used for short-term rental home use;

5. A list of the names and addresses of the owners and lessees of record within a five-hundred-foot distance from the lot on which the proposed short-term rental home is to be located; and a map, drawn to scale, that clearly identifies the lots and the tax map key numbers of the lots identified pursuant to this section; and

6. Additional information as may be requested by the planning director to determine impact and mitigation measures.

B. Notice of Application.

1. All applicants shall, by certified mail, provide a notice of application for a short-term rental home permit to the owners and lessees of record located within a five-hundred-foot distance from the lot on which the proposed short-term rental home is to be located.

2. The notice of application shall contain a description of the proposed short-term rental home operation, parking on the site, and number of bedrooms to be used for short-term rental home use, together with a location map identifying the short-term rental home lot in relationship to all other lots within a five-hundred-foot distance.

3. A project notice sign shall be posted at the front of the property along the main access road. The sign shall be four square feet. The sign shall be clearly visible from the roadway and shall contain information and wording as prescribed by the department of planning. The sign shall be placed five days prior to remitting an application and shall be removed no later than five days after a final decision has been rendered by the planning director or the planning commission.

4. The notice of application shall state that the noticed owners and lessees of record may file a written protest against the proposed short-term rental home with the planning director, provided that all protests must be postmarked or received within forty-five days of the mailing of the notice of application.

5. If planning commission review is required, pursuant to section 19.65.050.B, the application shall be subject to the requirements of section 19.510.020 of this title.

6. For purposes of this chapter, notice shall be considered validly given if the planning director finds that the applicant has made a good faith effort to comply with the requirements of this subsection.

C. If an application does not meet the legal requirements of this chapter, it shall be denied.



**19.65.050 Permit processing.** A. Short-Term Rental Home. Short-term rental home use of one to six bedrooms on Lanai or Maui or of one to three bedrooms on Molokai in a short-term rental home shall be permitted by short-term rental home permit.

1. The applicant for a short-term rental home permit shall file an application with the planning director as provided in section 19.65.040.

2. The planning director shall approve or deny the application pursuant to the requirements of this chapter.

3. The application shall be processed as provided in subsection B of this section if any of the following occur:

a. If written protests pursuant to section 19.65.040.B.4 comprise thirty percent or more of the owners and lessees of record within a five-hundred-foot distance from the lot on which the short-term rental home is proposed;

b. If a variance was obtained to meet the requirements for a short-term rental home;

c. If an existing short-term rental home is operating on a lot within a five-hundred-foot distance from the lot on which the short-term rental home is proposed;

d. For short-term rental homes located within the Hana community plan area, the number of bedrooms proposed for short-term rental home use shall be greater than three; or

e. For short-term rental homes located on Molokai and Lanai, the application is for an initial short-term rental home permit.

4. The planning director shall specify in the department's annual report the number of short-term rental home permit applications received and approved.

B. Short-term rental home permit applications described in subsection A.3 of this section shall be submitted to the appropriate planning commission. The appropriate commission shall review and either approve or deny the application pursuant to the requirements of this chapter, the effects the proposed use would have on surrounding uses, and the cumulative impacts within the community plan area and island; provided that, the Maui planning commission shall conduct a public hearing prior to approving an application for a short-term rental home permit within the Hana community plan area for which the number of bedrooms proposed for short-term rental home use shall be greater than three.

**19.65.060 Compliance and revocation.** A. Initial permits shall be valid for a maximum period of three years. Shorter periods may be approved to mitigate impacts. Subsequent permit renewals may be granted by the planning director for terms of up to five years on Lanai and Maui and up to one year on Molokai. In reviewing a time extension request, the planning director shall require evidence of compliance with conditions of the short-term rental home permit and this chapter. No permit shall be renewed without written verification of tax payments, and no permit shall be renewed if the operation of the short-term

rental home has created adverse impacts on the neighborhood in which it is situated or has otherwise caused the loss of the character of that neighborhood. For permits renewed for terms longer than two years, an annual compliance report shall be required.

B. All permits and renewals shall contain a provision for inspection at reasonable times and upon presentation of appropriate credentials.

C. Any permit for a short-term rental home shall be revoked at any time by the planning director if the requirements of this chapter or the conditions of approval have not been met.

D. In addition to any enforcement action pursuant to chapter 19.530 of this title, the rules of the appropriate planning commission, and the rules of the department of planning, the permit of the short-term rental home shall be revoked and the owner-applicant may not re-apply for another permit for two years after the date of revocation if it is shown that:

1. The owner-applicant gave false or misleading information during the application process;

2. The owner-applicant is in violation of State Department of Health regulations or any applicable laws;

3. The owner-applicant is overdue in payment of State or county taxes, fines, or penalties assessed in relation to the short-term rental home; or

4. There has been a violation of any of the terms, conditions, and restrictions on the use of the dwelling unit for a short-term rental home.

E. Any operation of a short-term rental home without an appropriate permit shall be in violation of this chapter and subject to the enforcement provisions of chapter 19.530 of this title.

F. No later than January 15 of each calendar year, the department of planning shall transmit to the real property tax division, department of finance, an annual list of all short-term rental homes as of January 1 of that calendar year. The real property tax division shall review its records and determine that none of the short-term homes has a homeowner's exemption.

**19.64.070 Administrative rules.** The director may adopt administrative rules to implement the provisions of this chapter.”

SECTION 15. Material to be repealed is bracketed. New material is underscored. In printing this bill, the County Clerk need not include the brackets, the bracketed material, or the underscoring.

SECTION 16. This ordinance shall take effect upon its approval. A pending application for a Conditional Permit pursuant to Chapter 19.40, Maui County Code, shall be processed in



accordance with Chapter 19.65, Maui County Code, if the Planning Director finds that the proposed use is likely to qualify as a short-term rental use home.

APPROVED AS TO FORM AND LEGALITY:

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Department of the Corporation Counsel  
County of Maui

paf:dmr:11-021b

# COUNCIL OF THE COUNTY OF MAUI

WAILUKU, HAWAII 96793

## CERTIFICATION OF ADOPTION

It is HEREBY CERTIFIED that RESOLUTION NO. 11-24 was adopted by the Council of the County of Maui, State of Hawaii, on the 18th day of March, 2011, by the following vote:

MEMBERS	Dennis A. MATEO Chair	Joseph PONTANILLA Vice-Chair	Gladys C. BAISA	Robert CARROLL	Eleanora COCHRAN	Donald G. COUCH, JR.	G. Riki HOKAMA	Michael P. VICTORINO	Michael B. WHITE
ROLL CALL	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye	Aye

  
COUNTY CLERK